

Resolution Agreement
Fordland R-III School District
OCR Case Number 07-18-1215

The U.S. Department of Education, Office for Civil Rights (OCR), and Fordland R-III School District (District) enter into this Resolution Agreement (Agreement) to resolve the above-referenced complaint. The Agreement does not constitute an admission of liability, non-compliance, or wrong-doing by the District. The District assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities.

Before OCR completed its investigation, the District agreed to resolve the issues of this complaint pursuant to Section 109 and Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve this investigation, the District agrees to take the following actions:

I. SECTION 504 AND TITLE II POLICIES AND PROCEDURES

The District will ensure the District's Section 504 and Title II policies, procedures, forms, and notices comply with Section 504 and Title II, including the Americans with Disabilities Act Amendments Act of 2008 (ADA Amendments Act),¹ and the applicable federal regulations, including Section 504 regulations at 34 C.F.R. §§ 104.31 through 104.35, regarding the identification, evaluation, and educational placement of students who, because of a disability, need or are believed to need special education or related services. Specifically, the District's Section 504 and Title II policies, procedures, and any handbooks shall include the procedures for imposing discipline on students with disabilities, including the following language:

- a) The disciplinary removal or exclusion of a student with a disability from school, such as a suspension, is a significant change in placement if the removal or exclusion is (1) for more than ten consecutive school days, or (2) a series of removals or exclusions that are each ten days or less during the same school year that constitute a pattern of exclusion. In-school suspensions for more than ten consecutive school days or that constitute a pattern of exclusion may be a significant change of placement if the student does not receive educational services required under Section 504 and Title II.
- b) The determination of whether a series of removals create a pattern of exclusion that constitutes a significant change in placement must be made on a case-by-case basis, including, but not limited to, the following factors:

¹ The definition of a qualified individual with a disability was amended by the ADA Amendments Act (P.L. 110-325), which became effective on January 1, 2009. The Act also amended Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. § 705).

- 1) The series of removals total more than ten school days in the same school year;
 - 2) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 - 3) Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.
- c) Prior to any disciplinary removal or exclusion of a student for more than ten consecutive school days, or for a series of removals that create a pattern of exclusion during the same school year, the multi-disciplinary team will meet to determine whether the student's conduct is a manifestation of the student's disability(ies). The multi-disciplinary team will review all relevant and recent information in the student's file, including, but not limited to, the student's 504 Plan, any teacher observations, psychological evaluation data related to the student's current behavior, and any relevant information provided by the parents or guardian, during the manifestation determination meeting to determine if the student's conduct in question is a manifestation of the student's disability(ies).
- d) Conduct found to be a manifestation of the student's disability: If the multi-disciplinary team determines that the student's conduct was a manifestation of the student's disability(ies), or the student's conduct was due to an inappropriate placement or failure to implement the student's Section 504/Title II Plan (or IEP), then the multi-disciplinary team must determine what, if any, modifications to the student's educational placement are necessary, including conducting a functional behavioral assessment and developing or revising a positive behavior intervention plan (if appropriate), and the student may not be disciplined.
- e) Conduct found not to be a manifestation of the student's disability: If the multi-disciplinary team determines that the student's conduct is not a manifestation of the student's disability, the student may be disciplined in the same manner and for the same duration as students without disabilities. If the parent(s) or guardian disagrees with the manifestation determination, the parent(s) or guardian may file an impartial hearing complaint.

REPORTING REQUIREMENT: By June 30, 2019 the District will provide to OCR copies of compliant or draft revised Section 504 and Title II policies, procedures (including any handbook) for OCR's review and approval.

II. COMMUNICATION OF (REVISED) POLICIES AND PROCEDURES

The District shall communicate the (revised) Section 504 discipline policies, procedures, and forms required by this Agreement to all District employees and officials by:

- a) Disseminating those revised policies and procedures via the District's electronic communications (email) system.

- b) Including those revised policies and procedures on the District’s website and in the online and hard-copy student, parent, and employee handbooks.

REPORTING REQUIREMENT: Within 30 calendar days following the District’s receipt of OCR’s approval of the District’s revised policies and procedures required in Section I above, the District will provide to OCR a copy of 1) the District’s revised policies and procedures in final form, 2) the email message and attachments distributing the revised policies and procedures via the District’s email system, and 3) links to the revised policies and procedures on the District’s website and in the online student, parent, and employee handbooks.

III. TRAINING

By June 30, 2019 the District will provide training on the subject of Section 504 and Title II compliance and the anti-discrimination, anti-harassment, and anti-retaliation requirements of those laws, to District administrators, teachers, and the designated Section 504/Title II compliance coordinator and investigator(s). The training will be conducted by an individual(s) knowledgeable about the laws and issues pertaining to disability discrimination, and in particular Section 504 and Title II. The training will include:

- a) A discussion and distribution to trainees of the District’s revised Section 504 and Title II policies and procedures, including:
 - 1) The general anti-discrimination provisions of Section 504 and Title II.²
 - 2) Properly implementing Section 504/Title II (or IEP) Plans.
 - 3) The placement procedures, including a discussion that placement decisions must be made by the multi-disciplinary team and not unilaterally by a school staff member.
 - 4) Identification of the District’s Section 504 and Title II compliance coordinator, including the coordinator’s required contact information.
 - 5) An explanation of the responsibilities of the coordinator.
- b) A detailed discussion of the District’s reevaluation obligations and the procedures for promptly referring and reevaluating students who employees suspect of having a disability and who need or may need regular education, special education, or related services, including the following information:
 - 1) The reevaluation duty exists even if a student with a disability is advancing from grade to grade.
 - 2) A parent or guardian is not required to request that the District identify and evaluate or reevaluate a student.
 - 3) A parent’s or guardian’s failure to make a request for identification, evaluation, or reevaluation does not relieve the District of its reevaluation obligations.
 - 4) The specific provisions pertaining to the reevaluation procedures set forth in the District’s revised Section 504 and Title II policies and procedures.

² See, 28 C.F.R. § 35.130(b)(1)(i), (ii) and (vii) (Title II) and 34 C.F.R. § 104.4(b)(1)(i), (ii) and (vii) (Section 504).

- c) A detailed discussion of the District’s obligations and procedures for disciplining students with disabilities, including the District’s obligation to conduct a timely manifestation determination before any significant change of placement based on a disciplinary removal or exclusion of a student with a disability from school (1) for more than ten consecutive school days, or (2) for a series of removals or exclusions that are each ten days or less during the same school year that constitute a pattern of exclusion.

REPORTING REQUIREMENT: By June 30, 2019 the District will provide to OCR documentation showing it has completed the training set forth above. The documentation must identify the:

- a) Date, time, and location of the training.
- b) Topics addressed at the training (the District may provide OCR an outline of the training and copy of the materials disseminated at the training).
- c) Name(s), title(s), and credentials of the individual(s) who conducted the training.
- d) Name, title, and work location of each employee who attended the training (a sign-in sheet with the attendees’ names, signatures, titles, and work locations is sufficient).

The District understands that by signing this Agreement it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District’s representative below.

/s/ Superintendent
Dr. Chris Ford, Superintendent
Fordland R-III School District
Fordland, Missouri

1/11/19
Date